


Below is an order of the court.


THOMAS M. RENN
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re:

CLAUSEN OYSTERS, LLC,

Debtor.

Case No. 23-60847-tmr11

ORDER AUTHORIZING DEBTOR TO
OBTAIN CREDIT

THIS MATTER having come before the Court on upon Debtor's Motion for Authority to Obtain Credit (the "**Motion**"); notice of the Motion having been given pursuant to Bankruptcy Rule 4001(c) and LBR 4001-1(c); the Court having considered the arguments of counsel and all relevant pleadings, exhibits, and documents of record in this case, the Declaration of Seth Silverman [ECF 81], the Supplemental Declaration of Seth Silverman [ECF 83], the testimony given by Seth Silverman at the hearing held on September 27, 2023, and the representation of counsel at the time of hearing; now, therefore,

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FINDINGS

The Court finds as follows:

1. Debtor Clausen Oysters, LLC (the “**Debtor**”) filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on May 18, 2023 (the “**Petition Date**”).
2. Debtor continues in possession of their property and are continuing to operate and manage its business as debtor-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.
3. This is a core proceeding pursuant to 28 U.S.C. § 157(b).
4. On August 7, 2023, the Court entered the Order Granting Stipulated Motion to Approve Compromise Between Debtor and Clausen Family [ECF 67]. Among other things, the compromise provided that the Clausen Family’s claim would be fully satisfied if the Debtor was able to pay the Clausen Family the amount of \$2,250,000 on or before September 18, 2023.
5. Debtor was unable to obtain financing in time to pay the Clausen Family by the deadline of September 18, 2023.
6. On September 20, 2023, the Clausen Family obtained relief from the stay pursuant to the terms of the approved settlement [ECF 77].
7. Newport Blue Impact, LP (“**Lender**”) has agreed to extend a post-petition loan (the “**Loan**”) to Debtor on a secured basis pursuant to 11 U.S.C. § 364(c)(2) on the terms set forth in the Term Sheet attached to the Declaration of Seth Silverman [ECF 81] as Exhibit 1 (the “**Term Sheet**”).
8. Lender has provided draft loan documents which are attached to the Supplemental Declaration of Seth Silverman [ECF 83] (the “**Draft Loan Documents**”).

9. The Clausen Family has agreed to extend the deadline for payment of the settlement amount and will accept payment under the terms of the approved compromise if Debtor pays \$2,250,000 on or before September 29, 2023.

10. Debtor has concluded that the Loan is necessary to fund the settlement with the Clausen Family.

11. Debtor will suffer immediate and irreparable harm if the Loan is not approved, as Debtor will be unable to perform the terms of the settlement with the Clausen Family, will lose benefit of the negotiated discount, and Debtor's property and business will likely be the subject of foreclosure or receivership.

12. Debtor is unable to obtain adequate financing on equal or more favorable terms than those offered by Lender.

13. Debtor believes the proposed terms and conditions of the financial accommodations provided in the Term Sheet and Draft Loan Documents are fair and equitable, and in the best interest of Debtor's estate.

Based on the foregoing, good cause exists to grant the Motion on an interim basis and to enter this Interim Order. Now, therefore,

IT IS HEREBY ORDERED as follows:

- a) The Motion is GRANTED;
 - b) Debtor is authorized to execute, if not previously executed, and deliver to Lender, a loan agreement that is consistent with the Draft Loan Documents, without material changes, and any notes or other loan documents incidental thereto (collectively, the "*Loan Documents*").
- Provided, however, that the Loan Documents shall not contain the "REMIC Savings Clause" found at Section 8.22 in the Loan and Security Agreement included with the Draft Loan

Documents.

c) Debtor is authorized to incur indebtedness under the terms of the Loan Documents and otherwise make such payments and perform such obligations as required or permitted under the terms of the Loan Documents.

d) Debtor is granted authority, pursuant to Section 364(c)(2) of the Bankruptcy Code, to execute and deliver deeds of trust or other security documents to Lender, to provide liens against the Collateral, as specified in the Term Sheet and Draft Loan Documents;

e) If any or all provisions of this Order are hereafter reversed, modified, vacated or stayed by any subsequent order of this Court, such reversal, modification, vacation or stay shall not affect the validity of any obligation to Lender that is or was incurred by Debtor pursuant to this Order, and that is or was incurred prior to the Effective Date of such reversal, modification, vacation or stay. Such reversal, modification, vacation or stay shall not affect the validity and enforceability of any priority authorized or granted by this Order.

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I certify that I have complied with the requirements of LBR 9021-1(a)(2)(A).

PRESENTED BY:

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